

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.C.BHARUKA

WRIT PETITION No.26658 OF 1997

BETWEEN:

Sri A.Maqbool Ahmed,
aged about 57 years,
s/o Late Mohammed Ibrahim A.,
Senior Assistant Master,
R.B.A.N.M. High School,
Bangalore-560 047.

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..PETITIONER

(By Sri.S.Narayana, Adv.)

AND:

1. The R.B.A.N.M.Educational Society, Bangalore-560 042, represented by its Honorary Secretary.
2. The Deputy Director of Public Instructions, Bangalore North, Bangalore-2.
3. Sri R.Surendra, Major, Head Master (Incharge), R.B.A.N.M High School, Bangalore-560 042.

..RESPONDENTS

(By Sri G.Papi Reddy, AGA for R-2;
By Sri Vasantha Kumar, Adv.for R-1 & R-3)

Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to direct R-1 and R-2 to consider the case of the petitioner for promotion to the post of the Headmaster in the present vacancy and grant him the benefits with retrospective effect.

This petition coming on for orders this day, the Court made the following:


ORDER

O R D E R

The petitioner is a Senior Assistant Master in the educational institution run by the first respondent-Society. He is aggrieved by the order passed by the 2nd respondent-The Deputy Director of Public Instructions and requires a direction by this Court for his promotion to the post of Head Master.

2. In view of the judgment of the Division Bench of this Court in W.A.Nos.1833 to 1836/95 and other connected appeals, disposed of on 30.5.1998, this writ petition is not maintainable. The petitioner has to resort ^{to the remedies as indicated in} para 12 of the judgment which reads:

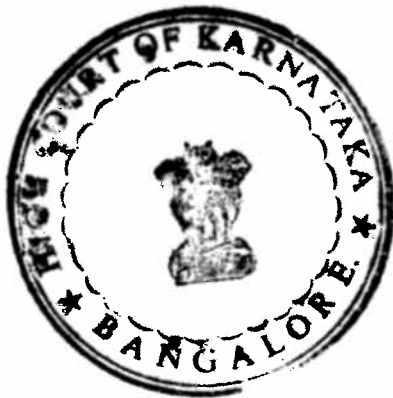
"As regards the locus standi of the staff working in the aforesaid educational institutions, to maintain the writ petitions, they have got the remedy of appeal under Section 24 of the Education Act against an order of dismissal or removal from service or reduction in rank. Under Section 130, appeal is provided against any order passed by an Officer or authority under the Act. Section 131 provides for revision by Government either suo moto or on an application from any person interested. Section 132 of the Education Act provides for review by the State Government either suo moto or on an application received from any person interested. The Government is also vested with the power to give direction under Section 133 of the said Act to make enquiry or take appropriate proceeding by the Commissioner or Director or any other Officer not below the rank of District Educational Officer and to submit report. Thus, the



Education Act provides for appeal, revision and review in respect of any order and in the absence of any order, the Government can be moved for issuing necessary direction in exercise of its power under Section 133 and the staff can avail the said remedies. Even with regard to payment of salary, what is stated above with regard to the teaching and non-teaching staff applies to the other staff also. Without exhausting such alternative remedy, they cannot be permitted to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution."

3. In the said view of the matter, the writ petition is dismissed with liberty to the petitioner to avail the remedy open to him under the Act.

If any such appeal, revision or application for direction is filed before the authorities under the said Act within ^{Six Weeks} ~~one month~~, then the same should be disposed of after hearing the management within three months of the filing of the same.



Sd/-
JUDGE